

APPROVED: Meeting No. 19-87

ATTEST: *Helen M. Henehan*

MAYOR AND COUNCIL

ROCKVILLE, MARYLAND

MEETING NO. 40-86

October 20, 1986

The Mayor and Council of Rockville, Maryland convened in general session in the Council Chamber, Rockville City Hall, Maryland Avenue at Vinson, Rockville, Maryland, on Monday, October 20, 1986, at 8:00 p.m.

PRESENT

Mayor Steven Van Grack

Councilman Steve Abrams

Councilman James F. Coyle

Councilman Douglas Duncan

Councilman Peter Hartogensis

The Mayor in the Chair.

In attendance: City Manager Richard V. Robinson; City Attorney Paul Glasgow; City Clerk Carol A. Kachadoorian.

Re: Invocation

The invocation was given by Lisa Taylor, President of the Rockville Chamber of Commerce.

Re: City Manager's Report

Mr. Robinson reported the following:

1. "Say No To Drugs" program that the City is working on is going well and City staff are working with citizen groups to include them on the details for that program.

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2. The City has been notified by the State of Maryland of funding approval for two grants. First, the Wootton Mill Park Creek bridge and four parks in the City were approved for basketball courts. In addition, the Falls Road walk/bikeway was approved for funding.

3. On October 30, 1986, at 9:30 a.m. in front of City Hall, the City will exchange flags with the County.

4. Staff is working on developing the process for handling applications for truck parking in residential areas. Applications for permits will be taken after November 1, 1986, when the law goes into affect. Complete information on the new process will be included in the next issues of the Rockville Reports. Questions can be directed to either the City Clerk, the City Manager or the Office of Licences and Inspections. Enforcement of the ordinance will begin in earnest, sometime after November 1, 1986.

Re: Presentation to Vitro

A presentation of City mugs, ties and flags was made to Raymond Carland of Vitro Corporation noting the corporation's recent office opening in the City.

Re: Proclamation on Drug
Awareness Week and Drug
Awareness Day

On Motion of Councilman Abrams, the proclamation on Drug Awareness Week and Drug Awareness Day was duly seconded and unanimously approved.

William Hanna, representative for the County Council; Charles Short, representative for the County Executive; and Hiawatha Fountain, representative for the County School System were present to sign the proclamation.

Councilman Hanna noted that the war against drugs is one war that we are going win and there will be no stopping until we do win. In addition, he stated that we will do anything and everything to make this happen, that we

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have to turn this situation around. Dr. Fountain of the Montgomery County School Board stated that he is personally committed to the "Say No To Drugs" week in Rockville and in all his capacities as a citizen and an official of the School Board, he was behind the proclamation. Dr. Fountain further stated that he hoped more young people would see the value in abstaining in the use of drugs and that the school system was behind the effort one hundred percent. Charles Short extended congratulations on behalf of County Executive Gilchrist to Mayor Van Grack in the City's efforts to battle drug abuse. Mr. Short stated that we have had success with cracking down on marijuana and we are currently fighting the drug crack, as well as alcohol abuse. Mr. Short stated that it is only when we all work together that we can be victorious. Mayor Van Grack thanked all of those who are involved in the project, particularly Rusty Wallace of the City's Community Services Department.

Councilman Duncan thanked the Association of Concerned Citizens of the Rockville Area, who brought the idea to the Mayor. Mayor Van Grack stated that the program is to be throughout all public and private schools in the City and that there are efforts to reach parents as well.

Re: Mayor's Report

1. The Mayor gave public recognition to the American Legion's Americanism night and expressed his support and approval of that program.
2. The Mayor complimented staff on the Antique Classic Car Show. He reported that the Mayor and Council selected a 1910 Stanley Steamer for the Mayor and Council Trophy.

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Re: Citizens Forum

1. Phillip Felts addressed the Mayor and Council regarding the proposed Text Amendment T-81-86, regarding mobile veterinary units. Mr. Felts submitted written testimony of the Montgomery County Veterinary Medical Association in opposition to Petvacx. Councilman Abrams advised Mr. Felts of the City's process for considering text amendment applications and noted that his comments are better suited for the public hearing on the text amendment once that is scheduled.

2. Robert Jacques addressed the Mayor and Council regarding the hotel project. Mr. Jacques stated that he was delighted that the hotel project fell through in that it was not a viable project to begin with. He asked that the City consider the proposition that not all growth is good growth and asked that decision growth be made on the basis of cost effectiveness instead.

Re: Resolution on
Oppression in Chile

Resolution No. 27-86

On Motion of Councilman Abrams, duly seconded, Resolution No. 27-86, the full text of which can be found in Resolution Book 8 of the Mayor and Council, regarding Oppression in Chile was unanimously adopted with slight alteration in the wording of the Resolution which was agreed to by all members of Council.

Councilman Abrams asked that the City's policy towards Chile be the same as that for South Africa in that the City would notify companies and financial institutions that the City did not desire to do business with them if they engaged in business transaction with South African businesses. Councilman Hartogensis preference to study this particular approach before making a decision on it

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and Councilman Coyle agreed with Councilman Hartogensis' request. In response to a question from Mayor Van Grack, City Manager Robinson stated that he would discuss with staff the possibility of treating Chile in the manner suggested by Councilman Abrams.

Re: Consent Agenda

On motion of Mayor Van Grack, duly seconded and unanimously agreed, Items No.'s 5 (i), (j) and (n) were removed from the consent agenda.

On motion of Councilman Duncan, duly seconded and unanimously passed, the following agenda items on consent agenda were passed as recommended by staff.

Re: Introduction of
Resolution: To enlarge
the corporate boundaries
of the City of
Rockville to include
52,141 square feet of
land, more or less,
Annexation Petition X-
100-86, Maung Tim & Mya
New Hlaing, Applicant

On motion to Councilman Duncan, there was introduced upon the table a resolution to expand the corporate boundaries to include a 52,141 square feet parcel of land, more or less, located at the intersection of North Glen Road and Viers Drive with a public hearing to be held on February 9, 1987.

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Re: Adoption of Resolution to provide for public hearing and notice in connection with the annexation of 52,141 square feet of land, more or less, Annexation Petition X-100-86, Maung Tin & Mya Nwe Hlaing, Applicant

Resolution No. 28-86

On motion of Councilman Duncan, duly seconded and unanimously passed, Resolution No. 28-86, the full text of which can be found in Resolution Book No. 8 of the Mayor and Council, to provide for public hearing and notice in connection with the annexation of 52,141 square feet of land, more or less, Annexation Petition X-100-86, Maung Tin & Mya Nwe Hlaing, Applicant, was adopted by the Mayor and Council.

Re: Introduction of Ordinance to Adopt Text Amendment, T-76-86, Mayor and Council, Applicant, to amend Chapter 6, Section 1-315 of the "Laws of Rockville" (Historic District Permits)

On motion of Councilman Duncan, there was introduced upon the table, an ordinance to grant Text Amendment, T-76-86, Mayor and Council, Applicant, to amend Chapter 6, Section 1-315 of the "Laws of Rockville" (Historic District Permits), said ordinance to lay over at least one week before final action is taken.

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Re: Introduction to Ordinance
to Adopt Text Amendment,
T-80-86, Mayor and
Council, Applicant, to
amend Chapter 6, Section
3-401 of the "Laws of
Rockville" (Truck
Parking)

On motion of Councilman Duncan, there was introduced upon the table, an ordinance to grant Text Amendment, T-80-86, Mayor and Council, Applicant, to amend Chapter 6, Section 3-401, of the "Laws of Rockville" (Truck Parking), said ordinance to lay over at least one week before final action is taken.

Re: Approval of request for
on-site SWM Waiver,
Montgomery College Child
Care Center, 51 Mannakee
Street, U-365-86

The Montgomery College Campus is located in the Watts Branch drainage area. The college plans to construct a building for a Child Care Center and other related improvements.

The Child Care Center will add an additional 0.12 acres of imperviousness to the college. The area where the building would be constructed is an old flood plain which was filled in when the college was originally constructed. Infiltration methods of SWM were considered but are not recommended because compacted fill is generally not suitable for infiltration.

The runoff from this site would be conveyed by an open stream to the Anderson Park SWM facility which is currently under design by Public Works. The Anderson Park facility would be able to provide both storage and water quality for the additional runoff.

The SWM Committee recommends that a waiver be granted and that a contribution of \$2,400 (0.12 acres at \$20,000 per acre) be accepted for the City off-site SWM program.

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On motion of Councilman Duncan, duly seconded and unanimously passed, the SWM Waiver for Montgomery College Child Care Center, 51 Mannakee Street and the contribution of \$2,400 recommended by staff was approved by the Mayor and Council.

Re: Approval of request for
on-site SWM Waiver
Request Clinton A.M.E.
Zion Church Building
Addition, 814 Westmore
Avenue, U-348-85

This 0.5 acre site located on the corner of Westmore Avenue and Elizabeth Avenue is located in the Rock Creek drainage area. The church plans to add on to the existing church building.

The additional and related improvements will add 0.14 acres of additional imperviousness to the site. On-site methods of SWM were considered. However, the soils on the site are not suitable for infiltration and the site elevations are low in relation to the existing public storm drain system, which makes on-site detention methods of SWM impractical.

Runoff from this site will enter the public storm drain system at a structure on Elizabeth Avenue. The runoff is then conveyed by enclosed storm drain and open stream to the Dover Road SWM facility. The Dover Road SWM facility was recently expanded and can provide both storage and water quality for the runoff from this site. The storm drains under Elizabeth Avenue and Westmore Avenue are not adequate to handle the current volume of runoff from either two, or ten year storms. During heavy storms when the storm drain under Elizabeth Avenue is flowing at capacity, water may backup in the church's on-

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site storm drainage system and pool in the grassy areas around some of the inlets approximately once every two years. The church recognizes this problem and has agreed to provide the City a Save-Harmless Agreement.

The SWM Committee recommends that a waiver be granted and that a contribution of \$2,800 (0.14 acres of \$20,000 per acre) be accepted for the City off-site SWM program, subject to receipt of the Save-Harmless Agreement.

On motion of Councilman Duncan, duly seconded and unanimously passed, the SWM Waiver for Clinton A.M.E. Zion Church Building Addition, 814 Westmore Avenue and the contribution of \$2,800 recommended by staff was approved by the Mayor and Council.

Re: Approval of request for
on-site SWM Waiver, Md.
Rt. 28 widening from
Research Boulevard to
Shady Grove Road

The State Highway Administration (MDSHA), through their consultant, Johnson, Mirmiran and Thompson, P.A., is seeking a waiver of on-site storm water management (SWM) for the widening of Route 28 between Research Boulevard and Shady Grove Road. The roadway is in the Watts Branch drainage area.

By construction of the road widening project the MDSHA will increase the impervious area within City jurisdiction by 0.3 acres. On projects such as this it is not easy or practical to provide on-site SWM because of the elongated, narrow configuration, drainage patterns and space for storm water management facilities. To do so would not be desirable from the standpoint of esthetics, maintenance and high cost.

The runoff from this site will be conveyed by enclosed storm drains to Watts Branch. The future regional SWM facility at Woottons' Mill Park could compensate for this additional runoff. Plans to manage storm water from MDSHA

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projects must be approved by the Department of Natural Resources (DNR). All agreements reached between the City and the MDSHA must be approved by the DNR. We will be meeting with DNR about this in the near future.

The SWM Committee recommends that the City grant the SWM waiver for this portion of Route 28 since public SWM facilities can compensate for the needed SWM and that a contribution of \$6,000 (0.3 acres at \$20,000 per impervious acre) be accepted for the City's off-site SWM program provided DNR concurs in the plan and agreement.

On motion of Councilman Duncan, duly seconded and unanimously passed, the SWM Waiver, Md. Rt 28 widening from Research Boulevard to Shady Grove Road and the contribution of \$6,000 recommended by staff was approved by the Mayor and Council.

Re: Approval of request for
on-site SWM Waiver,
Warehouse Buildings, 7400
Westmore Road, U-354-85

This approximately 2 acre parcel of land located at the corner of Westmore Avenue and Westmore Road is in the Rock Creek drainage area. The developer plans to build two warehouses and parking.

There will be 1.45 acres of imperviousness resulting from the development. The developer proposed the use of on-site infiltration systems for SWM. However, due to a high water table, only a portion of the runoff from new development can be controlled on site. Therefore, the developer has requested a waiver for 0.45 acres of the site and 0.32 acres of adjacent right-of-way.

Runoff from this site enters an open ditch along Westmore Avenue and is then transported by a culvert under Westmore Avenue. The runoff then flows in open swales across the Washington Gas Light Company facility to a tributary of Rock Creek. The Gas Company has experienced problems in the past with

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floatation of their storage tanks due to runoff from storms. With the City's SWM requirements being met on most of the site, runoff from the site during a 10-year storm, if a waiver is granted, will not increase over existing. The Dover Road SWM facility can provide compensating storage for the additional runoff.

The SWM Committee recommends that a waiver be granted and that a contribution of \$15,400 (0.77 acres at \$20,000 per acre) be accepted toward the City's off-site SWM program.

On motion of Councilman Duncan, duly seconded and unanimously passed, the SWM Waiver, Warehouse Building 7400 Westmore Road and the contribution of \$15,400 recommended by staff was approved by the Mayor and Council.

Re: Adoption of Resolution to approve the transfer of the cable communication franchise from Tribune United Cable of Montgomery County to Montgomery Cablevision Limited Partnership

Resolution No. 29-86

Re: Adoption of Resolution amend an agreement granting a non-exclusive franchise to Tribune-United Cable of Montgomery County to operate a cable television system in Montgomery County

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Resolution No. 30-86

Re: Adoption of Resolution to
authorize the City
Manager to execute
releases to effectuate
the settlement agreement
with Tribune United Cable
of Montgomery County

Resolution No. 31-86

On motion of Councilman Abrams, duly seconded and unanimously passed, consideration of the last three consent agenda items are treated as one.

Councilman Duncan asked for verification that the City has no right to access Channel 23. Councilman Abrams stated that with assurances of financial reimbursement and the two other conditions met by Mr. Hauser he could support the County's proposal. Mayor Van Grack reviewed the history that the City had with Tribune United, Mr. Hauser, and the City's response as well as its three conditions for approval. Councilman Hartogensis stated he was concerned regarding the identification of Channel 23 as it has become the City's identity. He stated, however, it is not more important to retain that numbering than having cable T.V. in the City at all and stated he would support the proposal as it exists in order to assure cable service for the City. Councilman Coyle asked if we had any options regarding the 23 identification. In response, Paul Glasgow, City Attorney, stated that the City cannot make this demand under the FCC law; and even we could under a contract agreement, it would not be binding. Councilman Coyle concluded that the City does not have any options other than what we currently have. Mayor Van Grack asked if we do have the option of not going along, particularly requesting how binding the letter from Mr. Hauser is, considering all other documents that the City has.

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Mr. Glasgow stated that the letter would be included in Resolution 29-86.

Public Information Officer Donald Vandrey stated that Mr. Hauser was willing to include his letter as part of the agreement.

On a motion from Councilman Abrams, duly seconded, the Mayor and Council unanimously approved the inclusion of the October 20, 1986, letter from Gustave Hauser be included as Appendix D to Resolution 27-86.

On motion of Councilman Abrams, duly seconded and unanimously passed, Resolutions No.'s 29-86, 30-86, and 31-86, the full text of which can be found in Resolution Book No. 8 of the Mayor and Council, to approve the transfer of the cable communication franchise from Tribune-United Cable of Montgomery County to Montgomery Cablevision Limited Partnership; to amend an agreement granting a non-exclusive franchise to Tribune-United Cable of Montgomery County to operate a cable television system in Montgomery County; and to authorize the City Manager to execute releases to effectuate the settlement agreement with Tribune United Cable of Montgomery County was adopted by the Mayor and Council.

Re: Adoption of Ordinance to
levy assessments for the
widening of Chapman
Avenue and Twinbrook
Parkway Intersection
Project 9A11

Ordinance No. 25-86

On a motion from Councilman Hartogensis, duly seconded, Ordinance No. 25-86, the full text of which can be found in Ordinance Book No. 13 of the Mayor and Council, to levy assessments for the widening of Chapman Avenue and Twinbrook Parkway Intersection Project 9A11 was adopted by the Mayor and Council.

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Re: Decision and Instructions
to Staff on Election's
Task Force Report

On a motion from Councilman Duncan, duly seconded and unanimously passed, a worksession for the Election's Task Force Report was set for November 17, 1986. Councilman Duncan requested that comments from the public hearing on the Report be summarized and reviewed for comment by the Elections Task Force. Mayor Van Grack suggested that the worksession be a joint one with the Task Force, and Councilman Duncan and Councilman Abrams approved. The meeting date for the Task Force was then changed to November 24, as it was noted that Councilman Hartogensis would be out of town on November 17.

Re: Public Hearing: FY 1988
Community Development
Block Grant Funds

The Mayor and Council of Rockville conducted a public hearing on FY 1988 Community Development Block Grant Funds and heard those persons as will be found in the official stenographic transcript of the hearing. There being no other citizen wishing to be heard, the Mayor closed the hearing with the record to be left opened for two weeks.

Re: Public Hearing: Concept
Plan Application No.
CPD-1-85, Westmont
Associates, Applicant

The Mayor and Council of Rockville conducted a public hearing on Concept Plan Application No. CPD-1-85, Westmont Associates, Applicant, and heard those persons as will be found in the official stenographic transcript of the hearing. There being no other citizen wishing to be heard, the Mayor closed the hearing with the record to be left opened for four weeks.

At this point in the meeting, the Mayor and Council adjourned for 15 minutes and reconvened at 11:25 p.m.

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Re: Preliminary Review and
Referral of Text
Amendment Application, T-
81-86, Petvacx, Applicant

On a motion from Councilman Duncan, duly seconded, the Mayor and Council unanimously approved referral of the proposed Text Amendment to the Planning Commission for analysis. Councilman Abrams asked for additional information regarding the last paragraph of Chief Planner Larry Owens' memorandum stating that "the Mayor and Council should recognize that issues associated with this case may go far beyond the concerns of the applicant; therefore, this Text Amendment could necessitate considerable staff time for research and analysis." City Manager Robinson responded that staff is simply noting that the issue is a complex one and that while the referral of the text amendment for analysis is justified, the issue will not be one that can be determined or analyzed in a short period of time.

Councilman Coyle asked if the City was going to look at a long list of other uses sighted. City Manager Robinson responded that staff intended to do so particularly in light of the technology developed in making mobile offices an easy phenomenon to occur. He further stated that this was happening all around the county and, therefore, staff wanted to take a broader look.

Councilman Hartogensis noted that this was not a frivolous request by the applicant of the proposed text amendment and that the applicant deserved his "day in court". Mayor Van Grack agreed with comments made, and the motion for referral was approved unanimously.

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Re: Adoption of Ordinance to
revise and amend
Ordinance No. 17-86,
appropriating funds and
levying taxes for Fiscal
Year 1987

Ordinance No. 26-86

On motion of Councilman Hartogensis, duly seconded and unanimously passed, Ordinance No. 26-86, the full text of which can be found in Ordinance Book No. 13 of the Mayor and Council, to revise and amend Ordinance No. 17-86, appropriating funds and levying taxes for Fiscal Year 1987 was adopted by the Mayor and Council.

Councilman Abrams asked why Section 3 was included, and City Manager Robinson responded that the Mayor and Council were simply amending the existing appropriations ordinance, and therefore, the entire ordinance with the amendments proposed were provided to the Mayor and Council.

Re: Adoption of Ordinance
to grant Street
Closing and
Abandonment
Application, SCA-51-
86, Congressional
South Associates,
Applicant

Ordinance No. 27-86

On a motion from Councilman Abrams, duly seconded, and unanimously passed, Ordinance No. 27-86, the full text of which can be found in Ordinance Book No. 13 of the Mayor and Council, to grant Street Closing and Abandonment Application, SCA-51-86, Congressional South Associates, Applicant, was adopted by the Mayor and Council.

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Re: Approval of Minutes

On a motion from Councilman Abrams, duly seconded, the minutes of Meeting No. 27-86 were approved as amended.

On a motion from Councilman Hartogensis, duly seconded, the minutes of Meeting No. 28-86 were approved unanimously.

On a motion from Councilman Abrams, duly seconded, the minutes of Meeting No. 29-86 were approved unanimously.

On a motion from Councilman Abrams, duly seconded, the minutes of Meeting No. 30-86 were approved unanimously.

On a motion from Councilman Hartogensis, duly seconded, the minutes of Meeting No. 31-86 were approved unanimously.

Re: Correspondence

1. Additional comments on Election Task Force Report by Steven Fisher.

In response to a question from Councilman Hartogensis, City Clerk, Carol Kachadoorian, affirmed that Steven Fisher's comments on the Election Task Force Report were included in the official public hearing on that report.

Re: For Your Information

1. Memo from Director of Planning regarding MD Department of Transportation's FY 87-92 Consolidated Transportation Project concerning Rockville
2. Letter to homeowners in Orchard Ridge Subdivision regarding the special assessment levy

Re: New Business

Councilman Coyle relayed that he had spoken to Anita and Jerry Rand concerning stop signs at Watts Branch Parkway and Girard Street. Councilman Coyle asked the City Attorney for an opinion regarding the City's liability in placing the stop signs at that intersection. City Attorney Glasgow responded

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that he was not concerned regarding the City's liability and felt that we could safely install the stop signs. Councilman Coyle, therefore, asked for a reaffirmation of a prior decision by the Mayor and Council to install stop signs at the intersection.

On motion of Councilman Hartogensis, duly seconded, reaffirmation of a prior decision by the Mayor and Council to install stop signs at the intersection of Watts Branch Parkway and Girard Street was unanimously passed by the Mayor and Council.

Councilman Coyle noted that he had had several people call to thank the City for the other signs that had recently been installed along Watts Branch Parkway.

Councilman Coyle raised the issue of the new County Ordinance regarding sprinklers included in new residential units and he asked that time be set aside at a meeting for a presentation by John Best, Montgomery County Fire Marshall, so that the City could consider adopting legislation for new townhouses and apartments. Mayor Van Grack responded that he would ask the City Manager to have staff look into the possibility of doing so.

Councilman Coyle inquired as to the City's code enforcement program, as it is a model program in this area. City Manager Robinson stated that a report on the program had been prepared and would be forwarded to the Mayor and Council.

Councilman Abrams asked for information regarding a "Not-For-Profit" Corporation in Howard County that was involved in providing affordable housing. City Manager Robinson responded that he would have staff find out the details of this particular corporation.

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Councilman Hartogensis stated that he would like a worksession on the Elections Task Force Report and that he would like to talk with elected officials in Gaithersburg who went to single registration, so as to identify problems raised by those who testified at our public hearing.

Councilman Duncan requested that the staff work with the Rockville Football League regarding some controversy over red team/green team rules and other issues. He stated that the controversy had occurred particularly at the games on October 18th. Councilman Duncan further stated that he would like staff to review the charter and rules of the league as was done with the Rockville Baseball Association. Councilman Abrams stated his support for this effort by the City staff. Councilman Coyle noted that his son was playing on a team and in the RFL and that the parents are becoming very frustrated over the situation. City Manager Robinson stated that he was aware of the problem and would have Recreation and Parks staff offer to help the Rockville Football League in resolving this issue.

Councilman Duncan stated his preference for not having an executive session on the mandatory referral process included in text amendment T-86-86. Councilman Duncan felt that the matter could be discussed at the meeting on October 27th and ask the Planning Commission to review the proposed procedure at its meeting on October 22nd. Councilman Abrams agreed to this approach.

Councilman Hartogensis asked the Mayor and Council to consider Bid No. 12-87 (letter of credit) that staff had requested be brought up under new business. The bid was duly seconded and unanimously adopted.

Councilman Coyle asked about the status of the police study report. City Manager Robinson responded that it will be available after the 1st of November.

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City Manager Robinson also added that a meeting on the report will not be held until after the November 22, 1986 strategic management session.

Mayor Van Grack asked that the Mayor and Council consider a proclamation declaring November as National Cosmotology Month. On motion of Councilman Hartogensis, duly seconded, the proclamation declaring November as National Cosmotology Month was unanimsouly passed.

Re: Executive Session

On motion of Councilman Abrams, duly seconded, and unanimously passed, the meeting was closed at 11:50 p.m. for executive session to discuss potential litigation

Re: Adjournment

There being no other business to come before the Mayor and Council in Executive Session, the meetiiing was adjourned at 12:00 midnight to convene again the general session on Monday, November 11, 1986, at 8:00 p.m. or at the call of the Mayor.